GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:5497
ANSWERED ON:29.04.2003
SECURITY TO WITNESSES
RENUKA CHOWDHURY

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether attention of the Government has been drawn to the prevailing judicial system relating to prosecutions in criminal cases and in which principle prosecution witnesses change their testimony and detract from their statement, whereby most of the cases of heinous crimes fall through and the criminals go scot free;

(b) if so, whether this state of affairs is largely attributable to the lack of security to the prosecution witnesses;

(c) whether attention of the Government has also been drawn to some neglect about certain wrong-practices such as addressing an accused as `Apradhi` in summons notices and malpractices and corruption rampant in courts; and

(d) whether the Government propose to set up any judicial administration commission to streamline the system and get over these weaknesses?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI I.D.SWAMI)

(a)to(d): A statement is attached.

STATEMENT REFERRED TO IN PARTS (a) TO (d) OF THE REPLY TO THE LOK SABHA UNSTARRED QUESTION NO. 54 SMT. RENUKA CHOWDHURY FOR 29TH APRIL, 2003 REGARDING SECURITY TO WITNESSES.

(a) & (b): With a view to tackling the problem of witnesses turning hostile the Law Commission in its 178th report has, inter alia, recommended insertion of section 164A in the Code of Criminal Procedure, 1973 which is follow:

`164A (1) Any police officer making an investigation into any offence punishable with imprisonment for a period of ten years or more (with or without fine) including an offence which is punishable with death, shall in the course of such investigation, forward all persons whose evidence is essential for the just decision of the case, to the nearest Magistrate for recording their statements.

(2) The Magistrate shall record the statements of such persons forwarded to him under sub-section (1) on oath and shall keep such statements with him awaiting further police report under section 173.

(3) Copies of such statements shall be furnished to the investigating officer.

(4) If the Magistrate recording the statement is not empowered to take cognizance of such offence, he shall send the statements so recorded to the magistrate empowered to take cognizance of the case.

(5) The statement of any person duly recorded as a witness under sub-section (1) may, if such witness is produced and examined, in the discretion of the court and subject to the provisions of the Indian Evidence Act, 1872, be treated as evidence.`

The 178th Report of the Law Commission has been referred to State Governments and Union Territory Administrations for their comments as the Criminal Law and Criminal Procedure are on the Concurrent List of the Seventh Schedule to the Constitution of India.

(c): It is for the High Courts to use the appropriate legal terminology in Hindi as per relevant provisions of the Code of Criminal Procedure, 1973. Under article 235 of the Constitution of India, the administrative control over the members of subordinate Judicial Service vests with the concerned High Court. Further, in exercise of powers conferred under proviso to Article 309 read with Articles 233 and 234 of the Constitution, the State Government frames rules and regulations in consultation with the High Court exercising jurisdiction in relation to such State. The members of the State Judicial Service are governed by these rules and regulations.

Care is taken to recruit/promote persons of integrity and take action against delinquents by proper authorities. Use of information technology in courts is being encouraged to promote transparency and fairplay.

Members of the Judiciary are also public servants. Any complaint regarding malpractice/corruption by public servant attracts the provisions of the Prevention of Corruption Act, 1988.

(d): No such proposal is under considerations.